

1
2
3
4
5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
7

8 CHARLES ERIC STEWART,

9 *Petitioner,*

10 vs.

11 STATE OF NEVADA, *et al.*,

12 *Respondents.*
13
14

2:09-cv-01063-PMP-GWF

ORDER

15 This habeas matter under 28 U.S.C. § 2254 comes before the Court following initial
16 review under Rule 4 of the Rules Governing Section 2254 Cases (the “Habeas Rules”) of the
17 third amended petition (#20). Following upon said review, a response will be directed.

18 IT THEREFORE IS ORDERED that Respondents shall have sixty (60) days from entry
19 of this order within which to answer, or otherwise respond to, the amended petition, including
20 by motion to dismiss. Any response filed shall comply with the remaining provisions below,
21 which are tailored to this particular case based upon the Court’s screening of the amended
22 petition and which are entered pursuant to Habeas Rule 4. **Respondents should not that**
23 **the original petition (#1) in this matter, which was filed before the Attorney General was**
24 **added as counsel on the record, reflects an alleged mailing date of June 2, 2009.**

25 IT FURTHER IS ORDERED that any procedural defenses raised by Respondents in
26 this case shall be raised together in a single motion to dismiss. Procedural defenses omitted
27 from such motion to dismiss will be subject to potential waiver. Respondents shall not file a
28 response in this case that consolidates their procedural defenses, if any, with their response

1 on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly
2 lacking merit.

3 IT FURTHER IS ORDERED that, in any answer filed on the merits, Respondents shall
4 specifically cite to and address the applicable state court written decision and state court
5 record materials, if any, regarding each claim within the response as to that claim.

6 IT FURTHER IS ORDERED that, with any motion to dismiss or answer filed,
7 Respondents shall file copies of the state court record materials that are relevant and material
8 to the procedural defenses asserted therein and/or to consideration of the merits of the
9 Petitioner's claims as to which dismissal is sought on the merits, including, but not limited to,
10 the items listed in Rule 5(d) of the Rules Governing Section 2254 Cases.

11 IT FURTHER IS ORDERED that any state court record exhibits filed by Respondents
12 herein shall be filed with a separate index of exhibits identifying the exhibits by number or
13 letter. The CM/ECF attachments that are filed further shall be identified by the number or
14 numbers (or letter or letters) of the exhibits in the attachment. **The hard copy of the state**
15 **court record exhibits shall be forwarded – for this case – to the staff attorneys in Las**
16 **Vegas, to the attention of: "P3."**

17 IT FURTHER IS ORDERED that Petitioner shall have thirty (30) days from service of
18 the answer, motion to dismiss, or other response to file a reply or opposition. The deadline
19 established by this order shall override any shorter deadline in a minute order issued pursuant
20 to the *Klinge* decision.

21
22 DATED: June 27, 2011.

23
24 
25 _____
26 PHILIP M. PRO
27 United States District Judge
28